63

SPEECH

OF

HON. CHARLES BILLINGHURST,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES, DECEMBER 10, 1858.

The House having under consideration the resolutions reported by the Committee on the Judiciary, in the case of Judge Watrous—

Mr. BILLINGHURST said:

Mr. SPEAKER: The House of Representatives is engaged in one of the most important duties which it can be called upon to perform. It is proceeding towards the impeachment of a Federal judge. The tenure of office of the Federal judges, unlike that of either of the other branches of Government, is for life, or during good behavior. If the President of the United States is guilty of crimes or misconduct in office it does not necessarily compel us to resort to this extraordinary power of impeachment, in order to remove him from office. The people can remove him periodically. So with the legislative department of Government. The people can periodically reach the members of that branch of the Government. But with the judiciary, where the tenure of office is for life, or during good behavior, the only method of reaching it is by the method the House is now engaged in. The people regard the office of judge as a higher and more sacred office than that of any other functionary under this Government. They look to it for purity, for integrity, and for ability.

In this case a Federal judge is arraigned for official misconduct, and we are called upon to say whether that conduct is such as in our judgment requires that he should be put upon his trial before the Senate, that we may be rid of an unjust and corrupt officer of the Government. It is not with the *man* we are dealing; it is with the officer. It is not whether Judge Watrous is to be benefited or injured by this proceeding; it is a proceeding in which the public have an interest—to preserve in its purity the administration of the law.

My purpose, Mr. Speaker, will not be so much to discuss the legal and constitutional questions involved in this case, as to present, in as connected and condensed a manner as possible, the testimony which has been taken before the Committee on the Judiciary. From expressions upon the part of gentlemen around me, yesterday, when the special order was reached, I judge that a portion of the House have not made as full preparation to meet the case as its importance demands; not such to enable them to arrive at a just, proper, and sound conclusion. To enable gentlemen as much as is in my power to arrive at such a conclusion, it is my purpose to present as clearly as possible the evidence which has been adduced; and in doing so I shall present first what I consider the points involved in the case, and then apply the evidence to them.

In the first place, in my judgment, the evidence taken in this case charges Judge Watrous with entering into a conspiracy with League, Lapsley, and others, for the unlawful institution of suits in his own court, with intent to remove them to a neighboring State to deprive the defendants of the right of a trial by a jury of the vicinage; with conspiring with League, Lapsley, and others, to deprive citizens of Texas of their lands by the use of false or forged title papers, knowing the same to be false or forged, and with the publication of such false or forged title papers; with having sat in the trial of a case where his interest was such as should have disqualified him; with entering into partnership, in the hope of gain, with leading litigants in his court pending litigation—such partners and judge having the same counsel, and such counsel being in partnership with the same litigants; and with favoritism on the part of the judge towards such counsel; with permitting repeated improper practices on the part of the officers of his court to go unrebuked.

I may be permitted, at the risk of being charged with repeating what was said yesterday, to give very briefly a history of the leading transaction in which misconduct is imputed to the judge. By a law of Mexico, previous to the independence of Texas, citizens of that State could, by depositing in the Treasury $1,000, receive from the Secretary of State a grant of land of eleven leagues, which amounted to about forty-eight thousand acres. In 1850, two brothers, Raphael de Aguirre and José Maria de Aguirre, and Thomas de la Vega, their brother-in-law, deposited in the Treasury $3,000, and received from the Secretary of State,

in pursuance of the laws of Mexico, a grant in one paper of three eleven-leagues, to those three individuals in severalty. In 1852, the grantees made a power of attorney to Samuel M. Williams, then a citizen of Texas, to locate and survey these several grants. A few days afterwards the power of attorney to locate and survey was executed. Samuel M. Williams received, it is said on the part of Judge Watrous, a power of attorney from the same parties to sell and convey these same lands.

It is alleged on the part of the memorialists, that Thomas de la Vega and Raphael de Aguirre never executed this last power of attorney; but it is conceded that they executed the first power of attorney. In 1850, in the month of May or June, Thomas M. League, a citizen of Texas, a land speculator and a client of Judge Watrous before the judge went upon the bench, and a confidential and intimate friend afterwards, went to Judge Watrous, and proposed to him to unite in buying the eleven-league tract, which was located by virtue of the grant to Thomas de la Vega. Judge Watrous asked if the title was good. Mr. League said that Judge Hughes had examined it. The contingency of litigation was then and there discussed. Judge Hughes was the confidential and professional adviser of Judge Watrous, and he was the confidential adviser and legal counsel of Thomas M. League. Judge Watrous replies, "I have not the means; but I have friends in Alabama who will invest, if the title be good." He wrote to his friends in Alabama. They consisted of five citizens of Selma, namely, Messrs. Lapsley, Frow, Price, Pluttenberg, and Goldsby. After receiving the letter of Judge Watrous, two of these gentlemen, Mr. Frow and Mr. Price, leave Selma and go to Galveston, meet with Judge Watrous and Mr. League and Judge Hughes, and hold a consultation. Then Mr. Frow, Mr. League, and Mr. Price go together to this land on the Brazos, about two hundred and fifty miles from Galveston, examine it, are satisfied with its quality and its value, return to Galveston, and come to an understanding, subject to the approval of their friends remaining in Alabama. Mr. League, up to this time, has paid Judge Watrous for his services for an examination of the title. Thereupon, Frow and Price retain Judge Hughes, and agree to give him *a retaining fee of* $500 *to conduct the litigation that shall grow out of the purchase.* This was in the month of June, 1850.

These gentlemen returned to Alabama. Nobody in Texas knew anything of this transaction but the individuals I have named, and Edwin Shearer, the brother-in-law of Price, who was present when the proposition was made by League to the judge. They reported at Selma, in Alabama, to their confederates, (an expression, in my judgment, fitting this case,) and, in the month of July, as early as the 9th, Judge Watrous, with his friend, Thomas M. League, appeared at that place, and the transaction was there perfected; Thomas M League, but a few days before, having received a conveyance from Mrs. St. John, who held this land under a conveyance from Samuel M. Williams, the original attorney who, I believe, was the brother of Mrs. St. John. They agreed to pay League nine thousand and odd dollars for the land. The Alabama gentlemen advanced the consideration, and the deed was taken from League in the name of John W. Lapsley alone, Judge Watrous and Thomas M. League retaining one half—that is, one quarter each—and the five Alabama gentlemen the other half, or one tenth each. It is shown by the evidence that it was understood by the parties that litigation was anticipated, and that it should be in the Federal court. I might cite the evidence of Lapsley, of Frow, of League, of Shearer, and the answer of Judge Watrous, all to this point. When the gentlemen I have named visited the land on the Brazos, they found ten or a dozen settlers there, with houses and other improvements. They ascertained that there were head-right certificates located upon it. Litigation was talked about, and Judge Hughes was retained to take care of the litigation and to institute the suits, before the transaction was completed. Mr. League afterwards, in receiving a portion of the money, said that he had received $500, and paid it over to Judge Hughes as his retainer, pursuant to the agreement of Frow and Price, at Galveston, in June prior.

It is said, Mr. Speaker, that up to this time Judge Watrous knew nothing about the title to this land; and that he took no part in the transaction. The evidence shows this: That at Selma, Lapsley demanded from League a warranty deed. Lapsley said that he did so for the purpose of testing the faith of League in his title. League hesitated, Lapsley insisted. Judge Watrous, who was in the room at the time, said that Judge Hughes had declared the title to be good; and League thereupon executed the warranty deed. I trust that members will remember this point, because I have to connect it with another, which will stamp this transaction as one of a very black character. Was Judge Watrous ignorant of this matter? Was he a mere idle spectator? My idea is, that Judge Watrous knew as much of this as any party to the transaction. The evidence shows it. A man who designs to commit a crime does not do it in open day light. It is not done in a bold manner. He, on the contrary, goes stealthily to work and seeks to cover up his tracks. Mr. League, in his testimony, said that he did not know who paid the balance of this money, nor how it was paid. On page 227, the question is asked of Mr. League, as to this particular payment to Mrs. St. John, and his answer was, "I cannot tell."

Now, to another point, to show whether Judge Watrous was indifferent in this transaction, a mere idle spectator. I refer to the testimony of G. W. Paschall, at page 434. In the concluding remarks of his testimony he says:

"In justice to all parties, I ought to add that I was prepared to believe it, [something that had been said to him confidentially about Watrous's interest in the La Vega tract,] because I had known that in the purchase of the La Vega tract, Judge Watrous had drawn a draft upon Lapsley, which passed through my hands as attorney for Mrs. St. John."

So it appears that after this transaction was perfected at Selma, Judge Watrous was in fact the paymaster and agent of these parties; and yet he would have the country to understand that he was a silent recipient of the benefits of this transaction for which he paid no consideration. Mr. Speaker, I beg gentlemen of the House to consider whether or not Judge Watrous had any interest in these sixty thousand acres of land, valued at from five to ten dollars per acre by the owners, but at the

lowest estimate worth $300,000. A quarter of this—the amount of Judge Watrous's interest, for which he has not paid a cent to this day—would be $75,000. The evidence shows that in the litigation and care of this property, these parties have already paid over twenty thousand dollars; and though Judge Watrous is the owner of one fourth of the property, he has not paid a cent.

This transaction looks to me as though League had scented the game, but was not the sportsman to bring it down. He applies to Judge Watrous, and Judge Watrous is not a sportsman either, but has sportsmen in Alabama at his command. He summons them and puts them in pursuit of the game. They bring it down, and get one half of it, while League is to have a quarter and Watrous is also to have a quarter; and at the same time the use of his court is to be permitted to deprive the defendants in Texas of trial by jury in that State. I am asked whether there was any particular understanding that the court was to be used for that purpose; and if gentlemen will look at the report made by the honorable gentleman from Pennsylvania from the Judiciary Committee, at the last session, and to his speech of yesterday, they will see what was the evidence on that point. Lapsley, in his letter of instructions to Judge Hughes, in the fall of 1850, before the suits were commenced, said he thought it was understood by all the parties when at Selma, that these suits were to be brought in the Federal court of Texas, to be removed to New Orleans, as they were afraid of a Texan jury.

There is an attempt in part of the evidence to show that Judge Watrous desired to have this litigation in the State courts. I will tell you how much that amounts to. In 1852, when Mr. Alexander and others were here preferring charges of impeachment against Judge Watrous, it here, for the first time, leaked out, so as to be known beyond the circle of the judge's particular friends and dependents, that he was interested in this La Vega tract, and that litigations were going on in his court in the name of Lapsley in regard to it. Thereupon he, here in Washington, immediately borrows of his friend, James S. Holman, $200, and pays it to Judge Hughes, also here in Washington, to go home to Texas, and bring suits in the State courts. That, however, was not till a long time after these suits had been instituted in his courts, and were pending there.

What a strange commentary is this upon the answer of Judge Watrous! We are led to suppose from reading his answer, that he knew of no litigation, nor supposed that any would become necessary about the La Vega lands, until after the supreme court of Texas had, in the case of Hancock, *vs.* McKinney, by a division of the judges, left the law on the case uncertain; which want of unanimity on the part of the judges, alone rendered litigation in this case necessary. Judge Watrous says, that thereupon he applied to Judge Hughes to know the cost of commencing a suit in the State courts, and was answered $200; which he "paid out of his own pocket to insure the certainty that litigation which he had not anticipated, but which had now become necessary, should be had in the State courts." He then says:

"I have been informed by Judge Hughes, that he did so bring the suit. But Mr. Lapsley, who had control of the matter, by reason of the legal title, was unwilling to trust the decision of the State courts, and wished the decision of the Supreme Court of the United States, and directed the suit to be brought in the district court of the United States at Galveston."

This is a shallow prevarication, and a "most lame and impotent conclusion."

I desire now to trace the litigation commenced by Lapsley to its end. In 1851, these suits were instituted in Judge Watrous's court. Who was the marshal that served the writs? Archibald M. Hughes, the son of the plaintiff's attorney. In March, 1851, after these suits were instituted at Galveston, Congress provided by law for three other courts to be held by Judge Watrous, in Texas, at Brownsville, at Tyler, and at Austin. That law required the judge at Galveston to distribute his causes among districts to which they respectively belonged. The Lapsley cases belonged to the Austin district, as the defendants resided in that vicinity; and it became the duty of Judge Watrous to transfer them there. In the court calendar, which was before the committee, for the April and May terms, these cases are marked "continued," in Judge Watrous's handwriting. No order was ever made for the removal of the Spencer case to Austin. No application was ever made for its removal there. These cases, which were in some way pending in Judge Watrous's court all this time, from 1851 to 1852, were then, it is claimed, by stipulation of the parties in court, on which an order was entered, removed to Austin. They were continued in 1853. In the fall of 1854, they were removed to New Orleans. Throughout all this time Mr. Spencer, the memorialist, never appeared in court, after the May term, 1851, at Galveston, and yet the orders in these cases are entered as by agreement.

In one of the Lapsley cases, under date of 6th January, 1852, I find this order in the minutes of the court:

"John W. Lapsley *vs.* James Marlin, (erroneously entered.) It appearing to the court that the defendant in this cause resides within the limits assigned to the branch of the district court of the United States for the district of Texas, held at Austin, upon the motion of said defendant, by his attorney, John Taylor, Esq., it is ordered that this cause be transferred to the said branch of the said court at Austin, and that the clerk of this court forward the papers and proceedings therein."

A similar order was entered in the case of Lapsley *vs.* Mitchell & Warren, and marked "erroneously entered."

A little further on, in the same minute book, is an entry which reads as follows:

"346. John W. Lapsley *vs.* James Marlin. This day came the parties, by their attorneys, and thereupon the judge presiding having stated that he could not sit in this case by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject-matter in contest, the said parties, by their attorneys, agree that this cause be transferred to the district at Austin. And further, it is agreed that the continuances and all other orders heretofore made, be corrected so as to read as made by consent of parties, and not by order of court."

A similar entry was also made in the case against Mitchell & Warren, and seven other of the Lapsley cases, but not in Spencer's case.

John Taylor, Esq., upon the subject of these orders, says:

"I see there orders made purporting to have been made by consent, and if I did not rely upon my motion for bringing them up, they must of course have gone up under an agreement of that kind. But as to any agreement or consent of the precise import of the one which I see embodied

in the minutes, I have not now the most distant or faint recollection. On the contrary, I do not see how I could have made an agreement of that kind, on the ground there alleged of the interest of Judge Watrous in the subject-matter of controversy, because their removal to Austin did not obviate the difficulty. The same disqualification would have existed in Austin as at Galveston, and the grounds alleged as the cause of transfer would have been nugatory, puerile, and silly on their face.

"*Question*, (by Mr. Billinghurst.) Suppose that you and Judge Hughes were negotiating about a counsel to try the cases?

"*Answer*. I was going on to remark, that as to any arrangement at that time at Galveston, which might have superinduced an entry of that kind, I have not now the most faint or distant recollection, nor have I at this time the most faint or distant recollection of having had at that time a knowledge of such a cause or reason for any such agreement or arrangement. Such a proceeding or expectation could not, in fact, have been grounded on that. The moment a proposition to substitute a counsel to try the cases was presented to me, it was repelled, and my consent was peremptorily refused." * * * * "They were taken up from Galveston, as I have always understood, by virtue of my motion." * * * * "I followed them up; had my consultations, and made my preparations solely with the view to try them in Austin in the ordinary course; which is altogether inconsistent with what appears on the face of the entries."

Why was this done; these entries changed in January, 1852? That court lasted but a few days. But little business was done; I think I can tell you why. Charges were pending here against Judge Watrous, and he was anxious to close up the business of the term and hurry on here to defend himself. When he had found that he had been making orders in cases in which he was himself interested, and that charges were about to be made against him, he changed the orders *nunc pro tunc*, and made them appear as if entered by consent of parties; and that, too, when Mr. Taylor and Mr. Howard both swear that they never gave any such consent. In the Spencer case, neither Spencer or his counsel ever appeared in court after the May term of 1851, while the cases remained in Texas. There were eleven of these cases, and that of Mr. Spencer, the memorialist, was one, and the orders made in the other cases, as by consent and agreement, in no way apply to him, because he was not represented in court.

Now, Mr. Speaker, it is said that Judge Watrous is not to be held responsible for this, because it was the agreement of the parties—the agreement of the counsel. I would ask this intelligent body of lawyers, who was the party in that court? Was it John W. Lapsley, who owned one tenth of the interest, any more than it was John C. Watrous, who owned one fourth of the interest? John C. Watrous invested John W. Lapsley with the title to his lands, and created him his general agent and attorney, and so long as he did not restrict him in the powers given, he invested him with all the powers he had himself. Robert Hughes, the attorney of John W. Lapsley, who conducted the suits, was the attorney of John C. Watrous; thus, the suits, when called on the calendar, so far as Judge Watrous was concerned, stood in this relation: John C. Watrous *vs.* Eliphas Spencer, and John C. Watrous *vs.* the other defendants. He knew that. Who agreed to continue these cases? Who agreed to transfer them to Austin? Was it Judge Hughes? Was it Lapsley? It was John C. Watrous. As an individual, speaking through Hughes, he agrees to continue the cases; and then, as a court, sitting upon the bench, he orders them to be continued upon the strength of this agreement. Shall he escape from the charge of misconduct in office by the plea that this was not an official act?

It seems that when the agreement was made at Selma, investing Lapsley with the title to the land he gave these parties a trust deed, one stipulation of which was that it should be recorded in each of the States of Alabama and Texas. It never was so recorded. Why? League gives the true solution of that. He says that he was not going to furnish them with a stick to break his own head with; he was not going to publish to the world that the Federal judge of Texas, in whose court the cases were pending, was interested. No, sir; so shrewd a land speculator as Thomas M. League, the confidential friend, the old client, the partner of John C. Watrous, was not thus going to break his own head, or be deprived of the use of a Federal tribunal. Judge Watrous says, in his answer, that it was stipulated that this deed should be recorded, and he emphasises it; but he follows that, by saying, without emphasis, that he does not know whether it was ever recorded or not; and it is proved by Lapsley that it never was recorded in either of the States. Was there in this an intention on the part of the judge and his confederates to secrete this interest? He says, in his answer, that his interest was known to his marshal, to his clerk, to his officers, to his counsel, Judge Hughes, and to the counsel of the parties. Is that true as to the defendants and their counsel? Spencer swears that he was in court when the suits were called, and that there was no disclosure. We call Howard, the counsel, and he swears there was no disclosure of interest. We call Taylor, who appeared for some of the defendants, and he swears that in 1852, when he made the motion for these cases to go to New Orleans, Judge Watrous did say something about being related to the parties by blood or marriage, but not such as, in the judgment of Mr. Taylor, would be a disqualification; but never discovered any pecuniary interest. He says the impression was resting on his mind; he is not certain whether he got it there or got it subsequently at Austin; but he had the impression that Judge Watrous disclosed an interest in 1852, but it was not a pecuniary interest. In fact, Judge Hughes, who ought to know, swears there was no disclosure by the Judge, until Taylor moved a change of venue to Austin, which was in January, 1852. Now, Judge Watrous has been able to prove, through the officers of his court, who live through his forbearance, many things; and they prove many things that do not redound to his judicial purity.

After this Spencer case was removed to be tried in New Orleans, the old gray-headed man heard by accident that it had been removed, and, poor man as he was, he started off five or six hundred miles to New Orleans to defend his case. He says that when he arrived there, he went into court and mingled with the crowd of spectators; that Hughes rose and moved for the trial of the Lapsley cases, intimating that there would be no defense; that then he appeared and stated that he was Mr. Spencer, and that he had come to defend his case; that he had just arrived in New Orleans, and desired time to consult counsel. He did consult counsel. The case was tried and the jury hung; on the second trial, the jury rendered a verdict against Spencer. The case passed to

the Supreme Court of the United States; and my honorable friend from New Hampshire [Mr. TAPPAN] cites the affirmation of that judgment as a confirmation of the course of Judge Watrous in his own court and in the court held at New Orleans. Now, sir, I will not impugn the court of the United States in New Orleans, but be it understood that the decision of that court was made when the power of attorney was used and was supposed to be genuine.

It was not until after this suit had been tried that the power of attorney was discovered to be a forgery. Subsequent to that trial, circumstances arose which led to the suspicion that it had been forged, and the court caused an inquiry to be instituted with a view of affecting the other cases. A commission was sent from New Orleans to Mexico to take the testimony of Thomas de la Vega and of the custodian of the archives, who had the protocol, as the original of this power of attorney was called. The testimony was taken. La Vega swears he never executed the power of attorney to sell, but executed the one to locate and survey. The custodian testifies that upon an examination of the archives he finds such a power of attorney among the archives, executed by José Maria de Aguirre alone, not by Raphael de Aguirre or Thomas de la Vega, although their names appear in the body of the instrument. But not having been executed by all the parties whose names appear in the body, notwithstanding that it was executed by José Maria de Aguirre, he testified to a conclusion of law that it was null and void. The commission is brought back to New Orleans, and the testimony taken thereon placed on the files of the court, to be used in the causes remaining for trial. A copy of this testimony is sent on to Thomas M. League and to Judge Hughes, in Galveston, Texas. League receives it and hurries off to Judge Watrous for counsel. Watrous advises him to go to Alabama and see the parties interested there. He goes to Alabama, and the first man he meets is Lapsley. He says to Lapsley, "now that your title to the land is questioned, I want you to release me from my warranty." Lapsley, without hesitation, releases him. Does that look like an honest and fair transaction? If it had been such, would Lapsley, who had invested his means in this enterprise, have been likely to have released the only responsible man connected with it?

After Lapsley had released League, he advances him $2,500, and authorizes him to incur as much additional expense as may be necessary to go to Mexico and establish their title. League then goes back to Galveston, finds Judge Watrous, and says: "Lapsley has released me from my warranty, and I ask you also to release me." Judge Watrous, without hesitation, releases him, although this man League was worth $100,000, or more, and although, if the power of attorney proved to be forged, they would have nothing to show for their money; yet they were willing to release him from his warranty. Does it look like an honest transaction? League then starts for Mexico, and proceeds as far as Brownsville, Texas, some two hundred miles, where a court of Judge Watrous was held. He takes Judge Watrous's clerk there, Francis J. Parker, and starts for Saltillo, Mexico, to find that old man, Juan Gonzales, who passed the *testamonio*, or issued the copy of the power of attorney. They took a man by the name of Treanor, an Irishman living at Matamoras, and proceed as far as Monterey, where League and this clerk, Parker, halt. League then invests Treanor with plenary powers in the enterprise, and directs him to proceed to Saltillo. Treanor found, at Saltillo, Juan Gonzales, an old man nearly blind from a cataract, though his sight had been partially restored. He examines the document presented by Treanor, and recognizes his rubric; but his vision is too much impaired to speak of the handwriting. Now, I do not believe I can enlighten the House in any way better than to present this transaction in Mr. League's own language:

"*Question.* What was the expense to you of the procurement of Treanor and Gonzales?

"*Answer.* The whole cost was something between five or six thousand dollars. I speak of this trip to Mexico to get this testimony.

"*Question.* That is what I speak of—did that cost between five or six thousand dollars?

"*Answer.* Yes, sir; I paid for expenses to Mexico, $4,173 72, and charged for my services $1,250. That makes the total $5,423 72.

"*Question.* How much of that $4,000 was to Treanor for his services?

"*Answer.* I paid Mr. Treanor something like thirteen hundred dollars.

"*Question.* How much did you give Gonzales?

"*Answer.* I found out that there was a difficulty in regard to the power of attorney at New Orleans. I had not the slightest idea in the world that there was anything in the matter but what was perfectly fair and right, and I thought that the power of attorney was perfectly fair. The first intimation we got of it was a copy of some testimony taken *ex parte*, which we knew nothing about, to show that that power of attorney in Saltillo was not signed by Thomas de la Vega, or by Raphael de Aguirre. A copy of the power of attorney was sent to us by Mr. Gurley, the clerk of the court at New Orleans.

"*Question,* (by the chairman.) Who do you mean by 'us?'

"*Answer.* Judge Hughes and myself. That was the first I knew of anything of the kind, and I then went to Selma, Alabama, to see Mr. Lapsley. There was still a case which was not tried at New Orleans, and Judge Hughes and I came to the conclusion that a matter of this kind, even after the cases were tried, would be likely to leave a bad impression on the minds of the judges, and that we should do away with any such impression. I went afterwards to Selma, and saw Mr. Lapsley. In conference with Mr. Lapsley, I concluded I had better go to Mexico. Mr. Lapsley then gave me a draft on New Orleans for something like $2,500, which I took there and had cashed.

"*Question.* How came you to think that you wanted so much money as that?

"*Answer.* It was a long distance away up in the mountains, and I always want plenty of money when I go anywhere.

"*Question.* What did you estimate it would cost there?

"*Answer.* I could not state.

"*Question.* How much did you ask Mr. Lapsley for?

"*Answer.* I wanted more than he gave me.

"*Question.* How much did you want?

"*Answer.* I wanted six or seven thousand dollars.

"*Question.* That was as much as you paid for the land?

"*Answer.* It was my intention, as I wanted peace and quiet, to buy any outstanding claims that there might be. If there was difficulty about the title, I would have bought the title of La Vega." * * * * * *

"*Question.* How much did you give Gonzales?

"*Answer.* We paid Mr. Gonzales, I think, $1,300.

"*Question.* In addition to his expenses?

"*Answer.* Yes, sir.

"*Question.* Did you bring anybody else from Mexico?

"*Answer.* He was the only man. First, I took Mr. Gonzales to Rio Grande City; it was the nearest point in Texas. He was an old man, and he had to have a carriage and horses to bring him there. We took his testimony.

"*Question.* What did you take his testimony to?

"*Answer.* As to the power of attorney. I took with me when I went there, Mr. F. J. Parker, United States commissioner. The clerk of the court at Brownsville went with me as United States commissioner.

"*Question.* You had not the original power of attorney?

"*Answer.* I had the *testimonio*. I could not get the original power unless I took all the books with it. The original power remained in the office. After we got Mr. Gonzales to Rio Grande City we took his testimony; but as that kind of testimony which is taken *ex parte* is viewed with suspicion, and this was a matter of considerable importance, I thought that it would be much better if I could prevail on him to go to Louisiana, and give in his testimony before the court there. I got Mr. Treanor to converse with him. While we were there the steamboat came puffing up towards Rio Grande City. We told him that if he would go with us he would see a steamboat and a railroad, things which he had never seen. 'How prettily,' he said, 'we can go on that boat and be taken to New Orleans.' By talking with him in that way we got him to agree to go with us. He said he left some hides in his vats, which he was afraid would be lost. He was a tanner, and one of the old and wealthy men of Saltillo. His honor had been impugned, and he felt as much interest in this as we did. He said if this was perjury, that he was the man who had committed it, or was cognizant of it. He said that he wanted to show his children that he was a man of honor. I asked him what would be the cost of the hides—what he would lose if they were lost in his vats? He said some seven or eight hundred dollars. I said that I would pay for the hides if he would come along. By that means we got him to Louisiana. He went to Louisiana, and gave in his testimony before the court; and he was cross examined by the defendant's counsel, Mr. Clack. His testimony is now filed in that court."

They took his testimony at an expense of $7,000, and then John Treanor took him in custody as he would a prisoner, and delivered him safely at his home in Mexico. Was all this necessary in a *bona fide* transaction? Are we to say that all this was fair?

I have said, Mr. Speaker, that this was a conspiracy. Let me read an extract as to "conspiracy" from 1 Greenleaf on Evidence, sec. 11:

"The connection of individuals in the unlawful enterprise being thus shown, every act and declaration of each member of the confederacy, in pursuance of the original concerted plan, and with reference to the common object, is, in contemplation of law, the act and declaration of them all; and is, therefore, original evidence against each of them. It makes no difference at what time any one entered into the conspiracy. Every one who does enter into a common purpose or design, is generally deemed, in law, a party to every act which had before been done by others in furtherance of such common design."

I have read this for the purpose of showing that Judge Watrous himself is responsible for all this; the law fixes it upon him, but we need not resort to legal intendment or to any circumlocution in this case to pin the judge; he is the principal who dictated these movements, and who has been consulted at every step.

I see that my time is fast passing away, and I must hasten on to present and review other points of the case. In the brief hour alloted me, I am sensible that I shall not be able to do either the subject or myself justice.

Judge Watrous, disregarding the proprieties of his judicial position, entered into partnership with two leading litigants in his court during the pendency of their litigation. If the gentlemen from Texas shall conclude to take part in this discussion, they will be able to inform the House better than I can of the tenure by which land was held in Texas. They can explain the various terms of littoral leagues, Spanish grants and Mexican grants, and various other land titles.

When Texas became a part of the Union, much litigation grew out of the unsettled condition of land titles. The heaviest litigants in the Federal court were non-residents, who endeavored to establish their titles under Mexican grants. Among these litigants, Colonel Christie, of New Orleans, Thomas M. League—not then in the Federal court, but in the State court—Dr. Cameron, of Mexico, Powers, and Hewitson, and various others, were extensive land owners. While Cameron was litigating for hundreds of thousands of acres of land, in the Federal court presided over by Judge Watrous, Judge Watrous, on his invitation, went with him to Mexico, and there entered into a speculation in a silver mine. He accompanies this heavy land litigant, whose counsel is Judge Hughes, and engages in a silver mine speculation with him in Mexico, when his cases in the Federal court are yet undetermined.

The Powers and Hewitson colony or grant was an extensive tract of land, and the litigation of the title to it was going on in Judge Watrous's court. Judge Hughes was the plaintiff's counsel. Hewitson lived in Mexico and Powers in Texas. The litigation was carried on in Hewitson's name. Powers bought Hewitson's interest. But Powers and Hewitson had litigation also in the State courts. Let Mr. League again speak for himself:

"*Question*, (by Mr. CLARK.) You never knew before that Hewitson could prove the handwriting of Gonzales?

"*Answer.* Never before.

"*Question.* At what time did you first become a party plaintiff or defendant in Judge Watrous's court?

"*Answer.* It must have been after the first Tuesday in July, 1850.

"*Question.* Do you recollect the occasion?

"*Answer.* Yes.

"*Question.* What was the occasion?

"*Answer.* The occasion was this: after I had changed my residence to the city of Baltimore, I became acquainted with James Power. I changed my residence, if I mistake not, about the last of April or the first of May, 1850. I made up my mind to remove to the city of Baltimore, and sent my family to the North. After they were gone, I became acquainted with James Power, while I was yet in Texas. He was an empressario of Power and Hewitson's colony. I was in Judge Hughes's office one day when Judge Hughes and Power were speaking over the business. Power had come up from his place on the Gulf, and was about changing his residence from Texas to New Orleans, so as to be able to bring suits in the United States courts, because, he said, his interest was large, and he was afraid to trust the courts of that country. Hughes and he talked for some time while I passed in and out. Power said it would be a very great and heavy sacrifice for him to change his residence. One thing led to another, and I became interested with Power, and Judge Hughes interested with me. Judge Hughes was to do all the legal part of the matter, and I was to furnish all the money in Power's business. It was Power and Hewitson's colony, but Hewitson had sold out to Power.

"*Question*, (by Mr. BILLINGHURST.) Was that Doctor James Hewitson?

"*Answer.* Yes; it was understood at the time, that Hewitson had sold his interest to Power.

"*Question*, (by Mr. CLARK.) You became interested in Power's suits?

"*Answer.* I did.

"*Question.* And in the suits to be brought?

"*Answer.* Yes; there was at that time large suits pending in the State courts at Texas, in the name of Power, but I also took on myself to carry on the whole business. Power's title was transferred to me. The only instrument that passed between us was a matter of litigation, and was passed upon by the Supreme Court of the United States. These were the first suits of any description that I ever brought in Judge Watrous's court; whether the Lapsley suits or these were brought first or last, I cannot say.

"*Question.* What did you do with the suits that were instituted in the State courts in the name of Power before this transfer to you?

"*Answer.* I pursued them in the State courts. Some one, two, or possibly three, were dismissed by Judge Hughes, my counsel, and I paid costs.

"*Question.* About how many suits were there in the State courts in Texas, pending in the name of Power, or of Power and Hewitson?

"*Answer.* I think some seven or eight; three of which were dismissed.

"*Question.* What disposition was made of the others?
"*Answer.* They were prosecuted.
"*Question.* To trial?
"*Answer.* Yes.
"*Question.* In the State courts?
"*Answer.* Yes.
"*Question.* How many suits were brought in the Federal court by Judge Hughes in your name, as plaintiff, after your arrangement with Mr. Power?
"*Answer.* I cannot tell; I think not more than seven or eight.
"*Question.* Were these suits tried?
"*Answer.* There was but one suit tried in Judge Watrous's court. As well as I recollect, it was the case of Thomas M. League against William H. Jones.
"*Question.* Do you recollect any other suit than that in which you were plaintiff that was ever tried before Judge Watrous, after May, 1850?
"*Answer.* There was one other case that came to trial —Thomas M. League *vs.* Daniel D. Atchison.
"*Question.* Did that suit result from your arrangement with Power?
"*Answer.* It had nothing to do with it; it was totally isolated.
"*Question.* Who instituted the suits which Mr. Hughes brought in your name as plaintiff, in pursuance of your arrangement with Power?
"*Answer.* I have just explained that Hughes and I were partners, and he had as much power and authority as I. He did the legal part, and I furnished the money. He was equal with me, and was at liberty to do what he pleased in my name."

In one of the suits thus instituted by League, Judge Watrous decided, when the question was raised, that League was not a citizen of Texas, but a citizen of Maryland. The case went to the Supreme Court of the United States, and the Supreme Court decided that he was not a citizen of Maryland, and he was turned out of court. The case is reported 18 Howard, 76. Mr. League, in his testimony here, swore that he immediately returned to Texas, and reconveyed the land to the original parties, and that they reconveyed it to a man named Williams, in North Carolina, and doubtless the same farce is to be reënacted in the same court, in the name of Williams.

Mr. Love, the clerk of the court, swears that League's litigation in Judge Watrous's court commenced in 1850. Now, at this same time that League is buying from Powers, in order to litigate in Judge Watrous's court, Judge Watrous goes into partnership with him in the Lapsley purchase. What was Hughes to do in this purchase from Powers? Powers was to have one third interest. The title was to go to League. He was to furnish all the expenses of the litigation. Hughes was to have one third for conducting the litigation, as a professional man. While we find Watrous in partnership with League, we find League, also, in partnership with Hughes, and both in partnership with Power; and Watrous in partnership with Cameron; and we find all these parties litigating in Judge Watrous's court, all speaking through the same man—Judge Hughes; and with the most intimate relations existing between them all. Is it to be said that Judge Watrous could sit on that bench and administer justice through a pure channel? Could he hold the balance fairly? It is not to be believed. Are not these charges sufficient to put him upon his trial?

I proceed from this point to the consideration of another question, which is the action of Judge Watrous in sitting on the trial of the cause of Ufford *vs.* Dykes. I have said there were three grants in one. Watrous is interested in the La Vega grant. The plaintiff in the suit of Ufford and Dykes was interested in the Raphael de Aguirre grant—the one in regard to which this power of attorney was forged. Watrous sat on the trial of that cause, and pronounced judgment in it. He charged the jury in so many words that the title was good. That title had to pass in review before him. He was interested in the original grant. He was interested in the power of attorney. If it was not a misdemeanor on his part, it was grossly indelicate to sit on the trial of this cause. It was creating judicial authority—a precedent that might be cited in his case at New Orleans, and in other litigations growing out of this grant—for it would not necessarily appear there that Judge Watrous was interested in the case. This act alone may not be a sufficient ground of impeachment, but when considered in connection with the manner in which Judge Watrous insinuated his favorite counsel, Judge Hughes, into the defense, for covert purposes, and with other facts elicited in the evidence, in my judgment it constitutes an impregnable ground of impeachment.

Another thing, Mr. Speaker. In 1852, the case of Ufford and Dykes was removed from Galveston to Austin. After it was removed, and while the order for its removal remained unrevoked, Judge Watrous allow the plaintiff to take a judgment by default at Galveston. Afterwards Thomas P. Hughes wants to have it reopened, and employs Mr. Hartley to aid him. Mr. Hartley files two motions before Judge Watrous at Galveston, the one in arrest of judgment, the other for a new trial. While these motions are pending, the court adjourns. In the evening Judge Hughes meets Mr. Hartley in one of the cross streets, and says, "I have come from Judge Watrous's room, where I left Mr. League. Judge Watrous is in great embarrassment what to do with your motions. He says he cannot entertain the motion for a new trial while the motion for arrest is pending. But if you file an affidavit of merits with your motion for a new trial, you can have it." There was a delicate mode on the part of Judge Watrous to insinuate that his friend Judge Hughes should be employed in the case. As a matter of course, the defendants employed Judge Hughes. Why should not they do so after this intimation, and considering his success with Judge Watrous? Judge Hughes is therefore employed on the part of the defense, and while so employed, he overrules his juniors, and stipulates to allow this *testimonio*, which was a forgery, to come into the case, without raising an objection to it, notwithstanding the junior counsel wanted to fight it all the way through; nay, he goes further—he even furnishes the plaintiff with the evidence, for he had it not—and admits a copy at that. Is it a mere accident that Watrous, League, and Hughes, are found together at this particular time? or are they in consultation concerning their interests involved in Ufford, *vs.* Dykes? Why this solicitude on the part of Judge Watrous to keep this power of attorney out of sight? Why was he afraid to touch it? Can it be said that after this *exposé* the judge was ignorant of the purpose for which Judge Hughes went into this defense? No man who examines this testimony can, for a moment, believe it. Sir, this judge is a link in a circular chain, made up of himself, of land speculators litigating in his court, and of officers who live on the crumbs of this court, linked together for common gain. In my judgment, he was as well

advised of the criminality of his connections as any one could be. It is utterly impossible that he could have been ignorant of it. He was either the dupe of designing men, or he was guilty of corrupt collusion with them.

Nor is Dr. Hewitson a useless plaintiff in the judge's court. The Lapsley cases remained long in court untried. The delay was not, as has been charged, attributable to the defendants. The plaintiff was never ready for trial until after they were sent to New Orleans. Why? Because the *testimonio* would not prove itself; it required substantiating evidence. While Judge Hughes was trying the Ufford and Dykes case at Galveston, in 1855, Dr. Hewitson was in attendance upon the court, with causes pending therein. Judge Watrous's case was then pending in New Orleans. Hewitson was from Saltillo, and must have known of Gonzales. He is inquired of, and found to possess the requisite knowledge. His evidence is taken as to the authenticity of this *testimonio*. He swears to the signature of Gonza[illegible] he is dead. Yet, in July, 1857, this [illegible] zales, whom Hewitson swears is dead in 1855, is taken to New Orleans at great expense, and there testifies. Are there two Gonzales? Dr. Hewitson is examined before A. M. Hughes, the son of Judge Hughes, who certifies that he took the deposition *ex parte*, because neither Spencer nor his counsel resided within one hundred miles. At that same time Robert H. Howard, the attorney of Spencer, resided in Galveston.

I have said the evidence discloses that repeated improper practices on the part of officers of the court have been permitted to go unrebuked.

The marshal has taken jurors from Galveston to make the panel at Brownsville. He has repeatedly summoned Francis J. Parker, the clerk of Judge Watrous's court, at Brownsville, to serve as a juror at Galveston. Edwin Shearer, a deputy clerk at Galveston, and not a freeholder, has more than once been put in the panel. It is a remarkable circumstance, that he should have been foreman of the jury in the case of Ufford *vs.* Dykes!

As to the Cavazos case I could not, if time would permit, add much to what is said in our report upon that branch of this investigation. So without entering upon it, I put it to the serious judgment of this House to say whether the evidence does not show that Judge Watrous ought to be put upon his trial, at the bar of the Senate, for such official misconduct as should, under the constitutional tenure of his office, terminate his official career?

It is said that a judge may buy lands. So he may. But is it compatible with the purity of his [illegible]ion to buy it of a plaintiff, litigating in his court, and pay nothing for it?

A judge may work silver mines; but may he, without reproach, go into such speculation with a party in his court?

Lord Bacon borrowed of Vanlore, a suitor before him, £1,000 at one time and gave his bond, and £1,000 at another time and gave his bill. This was held impeachable. In those days such acts were called bribery. I will not so name the acts of Judge Watrous; but I would create a necessity for the appointment of his successor.

Printed at the Congressional Globe Office.